

## SENATE BILL NO. 281

INTRODUCED BY SHOCKLEY, J. PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING DRIVER'S LICENSE SUSPENSIONS; AMENDING SECTIONS 46-6-310, 46-9-401, ~~AND~~ 61-5-214, AND 61-5-218, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 46-6-310, MCA, is amended to read:

**"46-6-310. Notice to appear.** (1) Whenever a peace officer is authorized to arrest a person without a warrant, the officer may instead issue the person a notice to appear.

(2) The notice must:

(a) be in writing;

(b) state the person's name and address, if known;

(c) set forth the nature of the offense;

(d) be signed by the issuing officer; ~~and~~

(e) direct the person to appear before a court at a certain time and place; and

(f) state that failure to appear may result in the suspension of the person's driver's license.

(3) Upon failure of the person to appear, a summons or arrest warrant may be issued."

**Section 2.** Section 46-9-401, MCA, is amended to read:

**"46-9-401. Forms of bail.** (1) Bail may be furnished in the following ways:

(a) by a deposit with the court of an amount equal to the required bail of cash, stocks, bonds, certificates of deposit, or other personal property approved by the court;

(b) by pledging real estate situated within the state with an unencumbered equity, not exempt, owned by the defendant or sureties at a value double the amount of the required bail;

(c) by posting a written undertaking executed by the defendant and by two sufficient sureties;

(d) by posting a commercial surety bond executed by the defendant and by a qualified agent for and on behalf of the surety company; or

(e) by posting an offender's driver's license in lieu of bail if the summons describes a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, as provided in 61-5-214 and if the offender is the holder of an unexpired driver's license.

(2) The amount of the bond must ensure the appearance of the defendant at all times required through all stages of the proceeding including trial de novo, if any, and unless the bond is denied by the court pursuant to 46-9-107, must remain in effect until final sentence is pronounced in open court.

(3) This chapter does not prohibit a surety from surrendering the defendant pursuant to 46-9-510 in a case in which the surety feels insecure in accepting liability for the defendant.

(4) Whenever a driver's license is accepted in lieu of bail, the judge shall return the driver's license to the defendant:

- (a) after the required bail has been posted or there has been a final determination of the charge; and
- (b) if the defendant pleaded guilty or was convicted, after a \$25 administrative fee has been paid to the court."

**Section 3.** Section 61-5-214, MCA, is amended to read:

**"61-5-214. Mandatory suspension for failure to appear or ~~pay fine~~ comply with criminal sentence -- administrative fee -- notice.** (1) The department shall suspend the driver's license or driving privilege of a person upon receipt of a report from the court, certified under penalty of law and in a form prescribed by the department, that the person:

(a) ~~is charged with or convicted of a violation of chapters 3 through 10 of this title or fails to comply with a sentence imposed pursuant to 46-18-201; failed to appear upon an issued complaint, summons, or court order after being charged with a misdemeanor or a felony violation under the Montana Code Annotated TITLE 45; OR TITLE 61, CHAPTERS 3 THROUGH 10, OR TITLE 87 or after posting a driver's license in lieu of bail as provided in 46-9-401(1)(e); or~~

(b) ~~(i) failed to post the set bond amount or appear upon an issued complaint, summons, or court order; (ii) after posting a driver's license in lieu of bail, failed to appear upon an issued complaint, summons, or court order; or~~

~~(iii) when assessed a fine, costs, or restitution of \$100 or more, failed to pay the fine, costs, or restitution; and~~

~~(c) received prior written notice that the driver's license or driving privileges of the person would be~~

1 ~~suspended upon:~~

2 ~~—— (i) failure to post bond or appear on an issued complaint, summons, or court order;~~

3 ~~—— (ii) failure to appear after posting a driver's license in lieu of bond; or~~

4 ~~—— (iii) failure to pay assessed fines, costs, or restitution.~~ failed to comply with a sentence imposed pursuant  
5 to 46-18-201, including but not limited to the payment of a fine, costs, or restitution as provided in 46-18-201(6).

6 (2) The suspension continues in effect until the court notifies the department that:

7 (a) the person has either appeared in court or ~~paid the~~ complied with the sentence imposed pursuant  
8 to 46-18-201, including the payment of any assessed fines, costs, or restitution; and

9 (b) the person has paid the court an administrative fee of \$25 if the court was holding the offender's  
10 driver's license in lieu of bail under 44-1-1102, 46-9-302, or 46-9-401.

11 (3) ~~(a) The~~ Before a report is submitted under this section, a person must be given written notice that the  
12 failure to appear on a criminal charge or comply with a criminal sentence may result in the suspension of the  
13 person's driver's license or driving privilege. Initial ~~notice required under this section may of the possibility of a~~  
14 license suspension must either be included on the summons or complaint and notice to appear form given to the  
15 person when charges are initially filed or ~~may~~ be contained in a court order, either hand-delivered to the person  
16 while in court or sent by ~~first-class~~ CERTIFIED mail, postage prepaid, to the most current address for that person  
17 received by or on record with the court.

18 (b) The initial notice must be followed by a written warning from the court, sent by first-class mail, advising  
19 the person that a license suspension is imminent and of the probable consequences of a suspension unless, by  
20 a specified date, the failure to appear or comply is remedied or the person appears ~~or pays within a specified~~  
21 ~~number of days~~ before the court to contest the impending license suspension.

22 (4) The court shall deposit any administrative fee received under subsection (2)(b) in the appropriate  
23 county or city general fund."  
24

25 **SECTION 4. SECTION 61-5-218, MCA, IS AMENDED TO READ:**

26 **"61-5-218. License reinstatement fee following license suspension or revocation.** (1) Except as  
27 provided in subsection (2), a person whose driver's license, other than a commercial driver's license, or driving  
28 privilege has been suspended or revoked shall pay a reinstatement fee of \$100 to the department to have the  
29 driver's license or driving privilege reinstated.

30 (2) (a) A person whose driver's license or driving privilege was suspended or revoked under 61-5-205

1 or 61-8-402 shall pay a reinstatement fee as required by 61-2-107.

2 (b) A driver's license or driving privilege that was suspended or revoked under 61-5-207 must be  
3 reinstated without payment of a reinstatement fee.

4 (c) The reinstatement fee required under subsection (1) must be waived by the department when a court  
5 notifies the department that the person has satisfied the requirements of 61-5-214(2) and the court has  
6 determined that the person is indigent under the standards set forth in 47-1-111.

7 (3) The department shall deposit the fees collected under subsection (1) in the general fund."  
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9 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2009.

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